

ST 00-0253-GIL 11/20/2000 ROLLING STOCK EXEMPTION

Effective August 14, 1999, motor vehicles, trailers, and property attached to those motor vehicles and trailers must carry persons or property for hire in interstate commerce on 15 or more occasions within a 12-month period to qualify for the Rolling Stock Exemption. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

November 20, 2000

Dear Xxxxx:

This letter is in response to your letter dated September 19, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Several members of ORGANIZATION, by this letter, are requesting an opinion or letter ruling regarding the applicability of Illinois' rolling stock sales tax exemption as it pertains to the transportation of anhydrous ammonia.

In this particular situation, the anhydrous ammonia is manufactured in STATE, and then transported by pipeline to a terminal located at CITY, Illinois. The same product is then loaded at CITY onto tankers and transported for-hire to various locations in Illinois.

We seek a clarification that these movements within Illinois are considered movements in interstate commerce and thus the vehicles used to transport the anhydrous ammonia could qualify for the rolling stock exemption.

If you should have any questions, please feel free to call.

The Illinois Retailers' Occupation Tax and Use Tax do not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce. The Department's rules governing the rolling stock exemption are found at 86 Ill. Adm. Code 130.340, copy enclosed.

The exemption applies to sales of tangible personal property to lessors under leases of one year or longer executed or in effect at the time of purchase with interstate carriers for hire for use as rolling stock moving in interstate commerce. A lessor will not incur Use Tax on the purchase of the vehicle that is leased to the interstate carrier for hire for use as rolling stock moving in interstate commerce under a lease term of one year or longer. See 35 ILCS 105/3-55(b) and 120/2-5(12). If a lessor leases a vehicle to an interstate carrier for hire under a lease term of less than one year, the rolling stock exemption is also available because the tax does not apply to the use by (or sale to)

lessors, owners, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce. See 35 ILCS 105/3-55(c) and 120/2-(13).

Effective August 14, 1999, motor vehicles, trailers, and property attached to those motor vehicles and trailers must carry persons or property for hire in interstate commerce on 15 or more occasions within a 12- month period to qualify for the exemption. See 35 ILCS 120/2-51; and 86 Ill. Adm. Code 130.340(e). For other types of property used in interstate commerce, the interstate carriers must be able to show, from their books and records, that the property has moved in interstate commerce for hire on a regular and frequent basis in order to qualify for the exemption.

Purchasers also must be recognized by the appropriate federal or state regulatory agency as interstate carriers for hire and have received a Certificate of Authority to engage in interstate commerce. Please note that it is not the type of item that determines whether or not it qualifies as rolling stock, but rather how a qualifying interstate carrier uses the item. In addition to receiving the proper Certificate of Authority, purchasers should be aware that only those items used specifically as rolling stock would qualify. See the enclosed copy of 86 Ill. Adm. Code 130.340.

We cannot provide you with a specific answer to your question regarding the transportation of anhydrous ammonia. It is possible that the movement of anhydrous ammonia from a terminal in Illinois may qualify as a movement in interstate commerce, but this determination will have to be made on a case-by-case basis depending upon the specific facts in each case. These situations would be best handled through Private Letter Rulings.

Since business, trade, and industrial associations or similar groups like the ORGANIZATION cannot obtain Private Letter Rulings on behalf of their members, we recommend that you inform your members that they can write the Department and ask for a Private Letter Ruling. See the enclosed copy of 2 Ill. Adm. Code 1200.110. If your members are not under audit and wish to obtain binding Private Letter Rulings regarding their specific factual situations, they must submit all of the information set out in items 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
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